

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

TOM BASCETTA et al., and on behalf of all  
others similarly situated,

Plaintiffs,

v.

VISION SOLAR, LLC,

Defendant.

CIVIL ACTION

Case No.: 1:23-cv-2010-KMW-AMD

**MOTION DAY: JULY 3, 2023**

**DEFENDANT VISION SOLAR, LLC’S MOTION TO COMPEL  
INDIVIDUAL ARBITRATION AND DISMISS THE COMPLAINT  
OR, IN THE ALTERNATIVE, STAY PENDING INDIVIDUAL ARBITRATION**

Defendant Vision Solar, LLC (“Vision Solar” or “Defendant”), by and through its undersigned counsel, respectfully submits this Motion, and Memorandum of Law which is incorporated herein, to Compel Individual Arbitration and Dismiss the Complaint filed by twenty-two named Plaintiffs; Tom Bascetta, Ar-Rahman Buskey, Sandra Cuenca, Xiroyma Disla, Deborah Donahue, Brian Fahey, Shawn Froment, Carlyn Hastraiter, Lyndsey Henderson, Stephanie Lupien, Dennis Lupien, Matthew McClelland, Nicola Noralus, Darlene Pagano, Evelyn Perez, Jorge Perez, Karen Quantz, Gregg Rorris, Janice Schmidt, Joe Schmidt, Danielle Stevens, and Chris Underwood, on behalf of themselves and all others similarly situated (collectively, “Plaintiffs”).

Plaintiffs’ lawsuit is nothing more than multiple breach of contract claims that must be adjudicated by arbitration on an individual and not class basis. Plaintiffs’ entire case is based upon Vision Solar’s purported fraudulent misrepresentations that supposedly induced Plaintiffs to enter into individual contracts for the purchase and installation of home solar energy systems. The contracts at issue, consisting of a Residential Sales Agreement (“Sales Agreement”) and

Addendum, which Plaintiffs failed to attach to their Complaint, included several critical provisions that Plaintiffs conspicuously ignore. One of the provisions contained in the Addendum to the Sales Agreement is an express agreement to arbitrate that is clear, unambiguous, and enforceable under the Federal Arbitration Act. Plaintiffs may argue that the arbitration provision is not enforceable because the contract was void *ab initio*. However, such arguments fail under the severability doctrine because arbitration provisions are severable and independently enforceable. Any determination as to the contract being voided due to fraud must be made by an arbitrator, and arbitration must be compelled in this case.

Further, once the Court considers the terms of the Sales Agreement and Addendum, Plaintiffs claims for fraudulent inducement, unjust enrichment, and violations of consumer protection laws fail. In essence, Plaintiffs claim they were led to believe they would save more money on energy costs and receive a larger tax deduction than they actually did, because Vision Solar spent an unreasonable amount of time to connect the solar systems to the energy grid. In doing so, Plaintiffs seek to enforce specific terms of the legitimate contract entered into by the Parties, yet at the same time ignore those portions of the agreement which belie their allegations. Indeed, Plaintiffs were told in the contract itself that Vision Solar estimations as to potential tax and energy savings should not be relied upon, and they should consult with a tax or accounting professional. Further, Plaintiffs expressly warranted that they did not rely upon any statements or representations of Vision Solar in entering into the Sales Agreement and Addendum. As such, Plaintiffs have not established claims that necessarily depend upon fraudulent misrepresentations and their claims must be dismissed.

Dated: June 5, 2023

Respectfully submitted:

**FOX ROTHSCHILD LLP**

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**CERTIFICATE OF SERVICE**

I, Brett A. Berman, hereby certify that, on this date, I caused the foregoing document to be filed electronically with this Court, where it is available for viewing and downloading from the Court's ECF system, and that such electronic filing automatically generates a Notice of Electronic Filing constituting service of the filed document, upon the following:

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Dated: June 5, 2023